

**Submission to 62nd session of the African Commission on
Human and Peoples' Rights on the situation of human
rights defenders**

NIGERIA

April 2018

The Republic of Nigeria's 5th Periodic Report was presented to the 56th ordinary session of the African Commission on Human and Peoples' Rights (ACHPR) in 2015. The ACHPR concluded that despite the progress made to promote and protect human rights in the country, Nigeria had failed to establish a specific law protecting human rights defenders and to repeal legislation criminalising defamation. The ACHPR recommended, among other things, that Nigeria take necessary measures to ensure the right to freedom of expression; adopt legislative measures to protect human rights defenders in conformity with the UN Declaration on Human Rights Defenders 1998 and the Commission's Resolutions on Human Rights Defenders; and desist from imposing restrictions or complex bureaucratic procedures for CSOs fundraising activities.ⁱ

The purpose of this paper is to highlight the situation for HRDs in Nigeria since its last review by the ACHPR; the steps taken by the Nigerian government to implement the ACHPR's past recommendations; and key recommendations for the ACHPR to consider making to Nigeria during its current review.

1. Risks facing human rights defenders

- Journalists, bloggers, and HRDs criticising the government or covering sensitive issues have regularly been subjected to abductions, beatings, arbitrary detention, and other forms of intimidation by the Nigerian security forces and police.ⁱⁱ
- Human Rights Watch reports that lesbian, gay, bisexual and trans (LGBT) HRDs in particular have come under increased threat since the passage in 2014 of a law outlawing participation in LGBT-related groups. They often face intimidation, discrimination and sometimes physical abuse.ⁱⁱⁱ
- HRDs and journalists reporting on minorities have come under increasing pressure following crackdowns against non-violent Biafran independence groups and the Islamic Movement of Nigeria.^{iv}
- Since President Muhammadu Buhari's election in 2015, the ruling All Progressives Congress has drafted a series of bills restricting free expression, free association, and space for civil society. While some of these bills have been withdrawn, others have been passed or are still under consideration.
- In 2015, the Pan-African Human Rights Defenders Network reported that because of their gender and work on women's rights, which often involves challenging societal gender norms (such as child marriage, polygamy and inheritance issues), women HRDs face particular threats and risks. This is particularly the case in northern states which apply Sharia law, and in rural areas.^v
- Human Rights Watch reported that in August 2017, the government threatened to charge under the Terrorism Prevention Act all those found to be spreading 'hate speech, anti-government and anti-security information' on social media, without providing a clear definition of these terms.^{vi}

2. Official restrictions on the space for human rights defenders

- Bill HB 585, which has passed two readings in the Nigerian House of Representatives, would establish a regulatory commission to oversee non-governmental organisations in Nigeria. Amnesty International states that the bill, which received overwhelming opposition at the public hearing organised in December 2017,^{vii} would impose undue restrictions on NGOs and place NGO formation and operations under government control, contrary to the UN Declaration on Human Rights Defenders.^{viii}
- On 7 January 2014, then-President Goodluck Jonathan signed into law the Same-Sex Marriage (Prohibition) Act (SSMPA). Among other measures, the law imposes a 10-year prison sentence on anyone who ‘registers, operates or participates in gay clubs, societies and organizations’ or supports such groups.^{ix} The Act has been associated with an increase in violence, discrimination and harassment of LGBT persons and defenders.
- In May 2015, the Cyber Crime Act was voted into law. The Committee to Protect Journalists calls the law an attempt ‘to muzzle the press,’ noting that the law has been used to press charges against bloggers for ‘cyber-stalking.’^x
- Human Rights Watch reports that in August 2017, the Director of Defense Information announced that the military would begin monitoring social media for ‘hate speech, anti-government and anti-security information.’ The government also announced penalties against media companies which were found to broadcast hate speech and threatened to use the Terrorism Prevention Act to charge people for hate speech.^{xi}

3. Human rights defenders facing particular risks

- While no prosecutions or convictions have been reported in connection to SSMPA prior to October 2016, numerous reports from the LGBT community indicate that the law has increased stigmatization of the community and resulted in arrests, mob violence, and vigilantism towards LGBT individuals and HIV awareness or LGBT rights groups.^{xii}
- On 20 March 2017, a previously unknown group calling itself the Global Peace and Rescue Initiative occupied the Abuja office of Amnesty International Nigeria, accusing it of supporting Boko Haram and separatists, and ordered it to leave the country within 24 hours. The group held protests at Amnesty’s office for several days. A coalition of 40 Nigerian civil society groups condemned the incident as a ‘siege’ by paid protests and organised a rally in support of Amnesty.^{xiii}
- According to Amnesty International, since August 2015 at least 150 members and supporters of the Indigenous People of Biafra (IPOB) have been killed by security forces at non-violent protests and gatherings.^{xiv}
- Sunday Chucks Obasi, a pro-Biafra activist, was shot and abducted from his home on 16 August 2016 by armed men believed to be agents of the Nigerian State. He was detained until December 2016 and was charged with obstructing Department of State Services (DSS) officials.^{xv}
- On 6 September 2016, State Security Service officers arrested journalist Emenike Iroegbu for violation of the Cyber Crime Act. Iroegbu had published a story alleging that Governor Ikpeazu of Abia State was involved in the killing of Biafran activists. Though the Ikpeazu administration claimed that the story was false and therefore illegal, Iroegbu was freed without charge the next day due to a lack of evidence.^{xvi}
- On 12 December 2015, Nigerian soldiers opened fire on Shiite protestors in Zaria. Over the next two days, 350 protesters and supporters of the Islamic Movement of Nigeria were killed at two sites in the city.^{xvii}

- In June 2017, journalist Ibraheema Yakubu with the Hausa radio service of the German Deutsche Welle was arrested while covering a procession by a Shiite group in Kaduna and detained for six hours. Yakubu was beaten and had his laptop and recording equipment destroyed by police.^{xxiii}
- In July 2017, HRD Maurice Fangnon was detained for 4 days by Nigerian police after reporting that a royal family member was responsible for a campaign of arson and murder that resulted in the displacement of 30,000 members of the Otodo-Gbame community. Amnesty International called this detention an attempt at intimidating Fangnon and impeding his human rights work. Fangnon was rearrested on 12 December before being released on bail 10 days later.^{xix}
- In August 2017, police arrested and detained journalist Danjuma Katsina after he posted comments on Facebook asking why a local politician could stand for election despite facing court action on corruption charges. The politician who filed the complaint had previously arranged for the arrest and 9-month imprisonment of another man who had insulted Katsina State's governor on social media.^{xx}
- On 6 June 2017, HRD Justus Ijeoma was beaten by Nigerian police at Onitsha Area Command.^{xxi} Justus Ijeoma had previously been assaulted and illegally detained along with fellow HRD Obi Efediorah on 9 February 2015. The two HRDs had come to the Inland Town Police Station in Onitsha to seek justice for five women who were arbitrarily detained and extorted a few days before.^{xxii}
- In January 2017, police arrested the publisher and judiciary correspondent of the online Premium Times for expressing 'deep hatred for the Nigerian army.'^{xxiii}
- In September 2016, bloggers Jamil Mabai, Bashir Dauda, and Umar Faruq were arrested after criticizing the Katsina State governor for purchasing coffins with public funds while civil servants went unpaid. The three were accused of attempting to cause civil disturbance and public ridicule of the governor.^{xxiv}
- In August 2016, blogger Abubakar Sidiq Usman was dragged from his home by agents of the Economic and Financial Crimes Commission. He was accused of 'cyber stalking related offences' in violation of the Cyber Crimes Act, although the agency would not identify the specific provision.^{xxv}
- In a report by Amnesty International in 2017, it was reported that Raymond Gold, a human rights defender, faced criminal charges for asking Integrated Oil and Gas Ltd, an oil company, to do an Environmental Impact Assessment (EIA), concerning the area they dredged in preparation for an oil refinery. He also received a threat from the company's Chief Security Officer via agencies of the Lagos State Government.^{xxvi}

4. The response of the State regarding the protection of human rights defenders

- In July 2016, Nigeria voted against Human Rights Council Resolution 32/31, which urges States to create a safe and enabling environment for civil society. Human Rights Watch refers to the vote as part of 'a disturbing pattern of anti-human rights and civil society rhetoric in the current Nigerian administration.'^{xxvii}
- Despite the general trend of legislation restricting freedom of expression, the Nigerian House of Representatives introduced the Digital Rights and Freedom bill in June 2016. Human Rights Watch welcomed the bill, stating that it 'aims to protect the rights and freedoms of internet users.'^{xxviii}

5. Recommendations to the Government of Nigeria

- In consultation with civil society, develop and enact a specific national law in conformity with the UN Declaration on HRDs to recognise, promote and protect the work of HRDs. The law should also provide for the establishment and operation of a properly mandated and adequately resourced human rights defender protection mechanism.
- Combat impunity by ensuring prompt, thorough and transparent investigations of all violations against HRDs, the prosecution of perpetrators, and access to effective remedies for victims.
- Refrain from criminalising the legitimate activities of HRDs and repeal all laws and policies that restrict their activities and rights, including the discriminatory Same-Sex Marriage (Prohibition) Act and the Cyber Crime Act.
- Refrain from adopting bills aimed at restricting CSOs funding and interfere with their financial autonomy, such as the Act to provide for the Establishment of the Non-governmental Organizations Regulatory Commission for the Supervision, Coordination and Monitoring of Non-governmental Organizations, Civil Society Organizations, Etc in Nigeria and For Related Matters.
- Ensure that the right to freedom of assembly, as provided by article 40 of the Constitution of Nigeria, is guaranteed especially the safety of HRDs advocating for minority rights.
- Take all measures to promote and protect human rights defenders while countering terrorism in Nigeria, by referring to best practices such as the African Commission on Human and Peoples' Rights', 'Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa'.

Questions to the government:

- Which measures will the government take to implement the ACHPR's recommendation regarding the adoption of a national law protecting human rights defenders?
- Which steps has the government taken towards the amendment or repeal of the Same-Sex Marriage (Prohibition) Act?
- How will the government guarantee that the Terrorism Prevention Act is in accordance with the Principles and Guidelines on Human and Peoples' Rights while Countering Terrorism in Africa, as mentioned in resolutions 88^{xxix} and 368^{xxx}? How will the government guarantee that it does not prevent HRDs from carrying out their legitimate work?

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ⁱ http://www.achpr.org/files/sessions/57th/conc-obs/5th-2011-2014/concluding_observations_nigeria_5th_sr_eng.pdf

ⁱⁱ <https://www.amnesty.org/en/countries/africa/nigeria/report-nigeria/>

ⁱⁱⁱ <https://www.hrw.org/report/2016/10/20/tell-me-where-i-can-be-safe/impact-nigerias-same-sex-marriage-prohibition-act>

^{iv} <https://www.amnesty.org/en/latest/news/2016/09/nigeria-crackdown-and-shrinking-civic-space/>

^v <https://www.africandefenders.org/wp-content/uploads/2015/04/StateofAfricanHRDs2015.pdf>

^{vi} <https://www.hrw.org/world-report/2018/country-chapters/nigeria>

^{vii} <https://www.premiumtimesng.com/news/headlines/252322-live-updates-reps-hold-public-hearing-ngo-bill.html>

^{viii} <https://www.amnesty.org/en/documents/afr44/7590/2017/en/> <https://www.reuters.com/article/us-nigeria-rights/nigeria-ngos-slam-civil-society-bill-as-grave-threat-to-freedoms-idUSKBN1E72CO>

^{ix} <https://www.hrw.org/report/2016/10/20/tell-me-where-i-can-be-safe/impact-nigerias-same-sex-marriage-prohibition-act>

^x <https://cpj.org/blog/2016/09/how-nigerias-cybercrime-law-is-being-used-to-try-t.php>

^{xi} <https://www.hrw.org/world-report/2018/country-chapters/nigeria>

^{xii} <https://www.hrw.org/report/2016/10/20/tell-me-where-i-can-be-safe/impact-nigerias-same-sex-marriage-prohibition-act>

^{xiii} <http://saharareporters.com/2017/03/22/large-civil-society-coalition-blasts-'shameful'-siege-amnesty-international-offices-abuja>
<https://www.premiumtimesng.com/news/headlines/226879-leading-nigerian-civic-groups-senator-sani-falana-condemn-attack-amnesty-international.html>

^{xiv} <https://www.amnesty.org/en/latest/news/2016/11/peaceful-pro-biafra-activists-killed-in-chilling-crackdown/>

^{xv} <https://www.amnesty.org/en/documents/afr44/6122/2017/en/>

<https://www.amnesty.org/en/documents/afr44/4716/2016/en/>

^{xvi} <https://www.premiumtimesng.com/news/headlines/246348-special-report-nigerian-law-suppressing-citizens-freedom-internet.html>

^{xvii} <https://www.amnesty.org/en/documents/afr01/3883/2016/en/>

<https://www.hrw.org/world-report/2017/country-chapters/nigeria#0a5928>

^{xviii} <https://www.premiumtimesng.com/news/more-news/235033-police-brutalise-nigerian-journalist-arrest.html>

^{xix} <https://www.amnesty.org/en/documents/afr44/6775/2017/en/> <https://www.amnesty.org/en/countries/africa/nigeria/report-nigeria/>

^{xx} <https://www.premiumtimesng.com/news/top-news/237181-police-release-nigerian-journalist-detained-facebook-post.html>

^{xxi} <https://www.amnesty.org/en/countries/africa/nigeria/report-nigeria/>

^{xxii} <https://www.frontlinedefenders.org/en/case/case-history-justus-ijeoma>

^{xxiii} <https://www.hrw.org/world-report/2018/country-chapters/nigeria>

^{xxiv} <https://www.premiumtimesng.com/news/headlines/212538-22-days-detention-criticising-governor-nigerian-blogger-gets-bail.html>

^{xxv} <http://saharareporters.com/2016/08/09/efcc-cyber-stalking-and-threat-freedom-expression-nigeria-inibehe-effiong>

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^{xxvi} <https://www.amnesty.nl/content/uploads/2017/05/HRD-briefing-26-April-2017-FINAL.pdf?x18276%20at%20page%2014>

^{xxvii} <https://www.hrw.org/world-report/2017/country-chapters/nigeria>

^{xxviii} <https://www.hrw.org/world-report/2017/country-chapters/nigeria>

^{xxix} <http://www.achpr.org/sessions/38th/resolutions/88/>

^{xxx} <http://www.achpr.org/sessions/60th/resolutions/368/>